

15 DAY RE-NOTICE OF PROPOSED REGULATORY TEXT

In the following, underline indicates added text and ~~striketrough~~ indicated deleted text to the original proposed text. Text in **bold and double underline** indicates changes for this 15-day renote.

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 15. CRIME PREVENTION AND CORRECTIONS
DIVISION 2. BOARD OF PRISON TERMS
CHAPTER 3. PAROLE RELEASE
ARTICLE 2. INFORMATION CONSIDERED

15 CCR § 2240 to read as follows:

§ 2240. Psychological Risk Assessments for Life Inmates

(a) Prior to a life inmate's initial parole consideration hearing, a Comprehensive Risk Assessment will be performed by a licensed psychologist employed by the Board of Parole Hearings, except as provided in subsection (g).

(1) In the case of a life inmate who has already had an initial parole consideration hearing but for whom a Comprehensive Risk Assessment has not been prepared, a Comprehensive Risk Assessment shall be performed prior to the inmate's next scheduled subsequent hearing, unless a Psychological Report was prepared prior to January 1, 2009.

(2) Psychological Reports prepared prior to January 1, 2009 are valid for use for three years, or until used at a hearing that was conducted and completed after January 1, 2009, whichever is earlier. For purposes of this section, a completed hearing is one in which a decision on parole suitability has been rendered.

(b) A Comprehensive Risk Assessment will be completed every five years. It will consist of both static and dynamic factors which may assist a hearing panel or the Board in determining whether the inmate is suitable for parole. It may include, but is not limited to, an evaluation of the commitment offense, institutional programming, the inmate's past and present mental state, and risk factors from the prisoner's history. The Comprehensive Risk Assessment will provide the clinician's opinion, based on the available data, of the inmate's potential for future violence. Board of Parole Hearings psychologists may incorporate actuarially derived and structured professional judgment approaches to evaluate an inmate's potential for future violence.

(c) In the five year period after a Comprehensive Risk Assessment has been completed, life inmates who are due for a regularly scheduled parole consideration hearing will have a Subsequent Risk Assessment completed by a licensed psychologist employed by the Board of

Parole Hearings for use at the hearing. This will not apply to documentation hearings, cases coming before the Board en banc, progress hearings, three year reviews of a five year denial, rescission hearings, postponed hearings, waived hearings or hearings scheduled pursuant to court order, unless the Board's Chief Psychologist or designee, in his or her discretion, determines a new assessment is appropriate under the individual circumstances of the inmate's case.

The Subsequent Risk Assessment will address changes in the circumstances of the inmate's case, such as new programming, new disciplinary issues, changes in mental status, or changes in parole plans since the completion of the Comprehensive Risk Assessment. The Subsequent Risk Assessment will not include an opinion regarding the inmate's potential for future violence because it supplements, but does not replace, the Comprehensive Risk Assessment.

(d) The CDCR inmate appeal process does not apply to the psychological evaluations prepared by the Board's psychologists. In every case where the hearing panel considers a psychological report, the inmate and his/her attorney, at the hearing, will have an opportunity to rebut or challenge the psychological report and its findings on the record. The hearing panel will determine, at its discretion, what evidentiary weight to give psychological reports.

(e) If a hearing panel identifies a substantial error in a psychological report, as defined by an error which could affect the basis for the ultimate assessment of an inmate's potential for future violence, the Board's Chief Psychologist or designee will review the report to determine if, at his or her discretion, a new report should be completed. If a new report is not completed, an explanation of the validity of the existing report shall be prepared.

(f) If a hearing panel identifies at least three factual errors the Board's Chief Psychologist or designee will review the report and determine, at his or her discretion, whether the errors invalidate the professional conclusions reached in the report, requiring a new report to be prepared, or whether the errors may be corrected without conducting a new evaluation.

(g) Life inmates who reside in a state other than California, including those under the Interstate Compact Agreement, may not receive a Comprehensive Risk Assessment, Subsequent Risk Assessment or other psychological evaluation for the purpose of evaluating parole suitability due to restraints imposed by other state's licensing requirements, rules of professional responsibility for psychologists and variations in confidentiality laws among the states. If a psychological report is available, it may be considered by the panel for purpose of evaluating parole suitability at the panel's discretion only if it may be provided to the inmate without violating the laws and regulations of the state in which the inmate is housed.

(h) The provisions of this section shall not apply to medical parole hearings pursuant to Penal Code section 3550 or applications for sentence recall or resentencing pursuant to Penal Code section 1170.

Note: Authority cited: Section 12838.4, Government Code and Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041 and 3041.5 Penal Code.

